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10/817,156

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Vincent Carmelo Bruzzese

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09/23/2008

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EXAMINER

TORIMIRO, ADETOKUNBO OLUSEGUN

ART UNIT

PAPER NUMBER

3714

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/817,156	Applicant(s) BRUZZESE ET AL.	
	Examiner ADETOKUNBO O. TORIMIRO	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 and 19-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 and 19-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>09/12/2007, 12/17/2007</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The amendment received on 09/12/2007 has been considered. It has been noted that claim 1 has been amended. Claim 18 has been cancelled.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-4,7-13,15,17, and 19-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wells et al. (US 6,488,585) in view of Baldwin (US 6,732,195).

Re claims 1,2,4,20, and 24: Wells teaches a communications and data transfer system and method for gaming establishments having a plurality of gaming machines (112a and 112b), said system and method comprising a hand held portable transponder (128), and each of said gaming machines includes a communication module (124) with a port (126) connected to a master gaming controller (122) of each said gaming machine whereby identification and control signals for a specific one or ones of said plurality of adjacent gaming machines can be input to, and sent from, said transponder to the master gaming controller of the selected gaming machines **(see col. 4, lines 24-36)** and in reply thereto, status/performance data of said selected gaming machines can be sent to, or overwritten by, said transponder **(see col.4, lines 24-36)** and wherein the master gaming controller controls the games played on said gaming machine **(see fig.1A; col.4, lines 10-15)**; wherein said transponder is further operable to make a prediction regarding

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performance of at least one new game to replace a current game of said one or more gaming machines **(see col.4, lines 24-36)**.

However, Wells fails to teach that the transponder comprises a display device and input mechanism and that the transponder displays a list or a graphical representation/map of said list of a plurality of devices located near it; and display the prediction regarding the performance of the at least one new game on said one or more gaming machines.

Baldwin teaches a method and system for updating peripheral devices. The system includes a personal digital assistant/ *PDA* (10) **(see figs.1 and 3; col.2, lines 8-11)** with an IR transceiver (12), input buttons (16), and a display (14) **(see figs.1 and 3)** that displays a list or a graphical representation/map of said list of a plurality of devices located near it; and display the prediction regarding the performance of the at least one new game on said one or more gaming machines **(see col.3, lines 5-10; col. 5, lines 26-31)**.

Therefore, in view of Baldwin, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wells gaming and communication system to use Baldwin's method and system for retrieving and updating device data by way of a personal digital assistant that comprises input buttons and displays a list or graphical representation/map of gaming devices in order to reduce the effort and time required in manipulation of gaming machine software and gaming machine maintenance and in turn decrease the down time of gaming machines leading to increased profit.

Re claim 3: Wells teaches that the transponder can download information to, and upload information from, a plurality of said gaming machines **(see col. 4, lines 24-36)**.

Re claims 7,22, and 26: Wells teaches that the gaming machines can receive downloads of software modification/games (**see abstract; col.4, lines 24-32**).

Re claim 8: Wells teaches that data pertaining to use and performance, compliance, and accounting are transferred (**see col. 4, lines 24-36**).

However, Wells does not clearly state the exact details of the data. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made that cash tin status, hopper status, printer paper status, button malfunction status, lamp status, note reject data, coin reject data or cash turnover ratio can be part of the performance, accounting, or compliance data.

Re claims 9 and 23: Wells teaches that hardware configuration data can be communicated in the system and verifying identity or characteristics of hardware is used (**see abstract**).

However, Wells does not clearly state the exact details of the data. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made that hardware configuration data would consist of the game machine identification in order to verify that the hardware modification is possible for that gaming machine.

Re claims 10-12: Wells teaches that data pertaining to use and performance, compliance, and accounting are transferred (**see col.4, lines 24-36**).

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However, Wells does not clearly state the exact details of the data, it would have been obvious to one of ordinary skill in the art at the time the invention was made that the data could be for the performance of a particular player and an outcome of a game in order so that the machines may track particular player accounts and follow game outcomes to assure that the game machine is working properly and to make sure of accounting details for the player.

Re claims 7-12,21-23, and 26: Wells fails to teach the particulars of the status and performance data.

Baldwin discloses that the PDA (10) uses bidirectional communication with a plurality of peripheral devices that are in range (**see col.4, lines 63-66**) and when selecting a peripheral device (**see col.4, lines 66-67**), communication of status/maintenance data and software between it and the peripheral devices occur (**see col.5, lines 11-19**).

Therefore, in view of Baldwin, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wells gaming and communication system to use Baldwin's method and system for retrieving and updating device data by way of a personal digital assistant and that any combination of status and software/game information communicated between the PDA and gaming machines is possible in order to reduce the effort and time required in manipulation of gaming machine software and gaming machine maintenance and in turn decrease the down time of gaming machines leading to increased profit.

Re claim 13: Wells fails to teach that the communication module is coupled to a wireless interface, but it would have been obvious to one of ordinary skill in the art at the time the

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invention was made to modify the communication board to be coupled to the portable device (28) by means of wireless communication and in the case of player tracking and therefore to include a wireless interface in order to increase the amount of ways the gaming machine can communicate to external devices and increase its attractiveness to the consumer.

Re claims 15 and 17: Wells fails to teach that the transponder can display a map that shows the location of the transponder and provides directions to the gaming machines.

However, Baldwin teaches a transponder (10) that includes a map display indicating device locations and status at a location and gives a “minimum walk”/directions for visiting the devices **(see abstract)**.

Therefore, in view of Baldwin, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wells gaming and communication system to use Baldwin’s method and system for retrieving and updating device data by way of a personal digital assistant displays a list or graphical representation/map of gaming devices in order to reduce the effort and time required in manipulation of gaming machine software and gaming machine maintenance and in turn decrease the down time of gaming machines leading to increased profit.

Re claim 19: Wells teaches a gaming machine to generate a game of chance (122), receive cash (132a), to present an outcome (132c) and output cash (132b) **(see fig.1A; col.4, lines 10-15)**.

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Re Claim 25: Wells does not teach if only one game is available for play on the gaming machine at any one time, but it would have been obvious to one of ordinary skill in the art at the time the invention was made to use Wells gaming machine with the option of only one game and not multiple games in order to allow easier use of the gaming machine and to target only particular players that play the type of game offered.

Re claim 27: Wells et al teaches a hand held portable transponder (128), and each of said gaming machines includes a communication module (124) with a port (126) connected to a master gaming controller (122) of each said gaming machine whereby identification and control signals for a specific one or ones of said plurality of adjacent gaming machines can be input to, and sent from, said transponder to the master gaming controller of the selected gaming machines **(see col. 4, lines 24-36)** and in reply thereto, status/performance data of said selected gaming machines can be sent to, or overwritten by, said transponder **(see col.4, lines 24-36)**.

Re claim 28: Wells et al teaches a computer readable medium (176a) including computer program code, comprising computer program code for allowing a hand held portable transponder (128), and each of said gaming machines includes a communication module (124) with a port (126) connected to a master gaming controller (122) of each said gaming machine whereby identification and control signals for a specific one or ones of said plurality of adjacent gaming machines can be input to, and sent from, said transponder to the master gaming controller of the selected gaming machines **(see fig.1B; col.4, lines 24-36)** and in reply thereto,

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status/performance data of said selected gaming machines can be sent to, or overwritten by, said transponder **(see col.4, lines 24-36)**

Re claims 29 and 30: Wells et al teaches a gaming machine (112a,112b,112c) to receive identification and control signals from a hand held portable transponder (128), and each of said gaming machines includes a communication module (124) with a port (126) connected to a master gaming controller (122) of each said gaming machine whereby identification and control signals for a specific one or ones of said plurality of adjacent gaming machines can be input to, and sent from, said transponder to the master gaming controller of the selected gaming machines **(see col. 4, lines 24-36)**; wherein said gaming machine is further operable to send the hand held portable transponder status data of said gaming machine **(see col.4, lines 24-36)**.

4. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wells et al. (US 6,488,585) in view of Baldwin (US 6,732,195) as applied to claim 1 and 4 above, and further in view of Itkis (US 4,856,787). The teachings of Wells and Baldwin have been discussed above.

Re claims 5 and 6: Wells and Baldwin fail to teach gaming machines that have multiple game programs and that control signals select, after a predetermined time and after transmission of control signals, a predetermined one of said programs to determine which game is able to be played on said machines.

Itkis teaches a gaming machine with multiple games **(see fig.8)** that are played and can be chosen from by selecting **(see fig. 5)** which game would like to be played on the game machine.

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Therefore, in view of Itkis, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wells, modified by Baldwin, gaming and communication system to use Itkis's concurrent game network with multiple games for machine in order to increase the attractiveness of the gaming machine by offering multiple games so that it will interest more players to play the gaming machine.

5. Claims 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wells et al. (US 6,488,585) in view of Baldwin (US 6,732,195) as applied to claim 1 and 15 above, and further in view of Jorasch et al. (US 6,379,248). The teachings of Wells and Baldwin have been discussed above.

Re Claim 14: Wells and Baldwin fail to teach a wireless interface that is located on a player tracking unit.

However, Jorasch discloses a gaming device with a player interface (338) that can communicate wirelessly (see **fig.14; col.3, lines 58-60; col.4, lines 47-48**).

Therefore, in view of Jorasch, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wells, modified by Baldwin (as applied to claim 1 above), gaming and communication system to include a player tracking unit that can communicate wirelessly in order to offer the machine with player tracking capabilities so to attract players that only use machines that allow player tracking capabilities and therefore increase the time the machine is in use and earning profit for the casino.

Re claim 16: Wells, modified by Baldwin (as applied to claim 15 above), teaches a transponder (10) that includes a map display indicating device locations and status at a location and gives a “minimum walk”/directions for visiting the devices (**see abstract**).

Response to Arguments

6. Applicant’s arguments filed 09/12/2007 have been fully considered but they are not persuasive.

In response to the Applicants argument in regards to claims 1 and 20, that Wells et al fails to teach the feature of gaming machine including communication module connected whereby identification and control signals for a specific one or more of said plurality of gaming machines ... selected gaming machine can be sent to, or overwritten by said transponder, the Examiner disagrees. As noted by the Applicant, the Examiner interpreted the claims broadly and maintains this rejection because the teaching of Wells et al in col.4, lines 24-36 teaches a possibility to combine numerous functions onto a given board, which includes according to the Examiner’s interpretation the functions in the feature claimed by the Applicant. Also the Examiner points out that the invention of Wells et al includes a controller, which Examiner believes functions with control signals.

In response to the Applicants argument in regards to the Examiner’s rejection of claim 5, the Examiner disagrees. The Examiner agrees that Itkis does not teach the feature of control signal, however Wells et al teaches this feature as explained in the previous paragraph. Also, the examiner recognizes that combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion can only establish obviousness, or

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motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

In response to applicant's argument that a *prima facie* case of obviousness has not been established and that there is no suggestion to combine the references regarding Claims 1-4, 7-13, 15, and 17-26, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Examiner points out to Applicant that both Wells et al and Baldwin teach on communication between multiple devices. Examiner therefore maintains the 35 USC 103 rejection.

In response to applicant's argument that a *prima facie* case of obviousness has not been established and that there is no suggestion to combine the references regarding Claims 14 and 16, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Examiner points out to Applicant that both the combination of Wells et al, Baldwin, and Itkis, and the combination of Wells et al, Baldwin, and Jorasch, teach methods of networking and

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communication amongst multiple of devices. Examiner therefore maintains the 35 USC 103 rejection.

In response to the Applicant's argument in regards to claims 10-12, the Examiner points out to the Applicant that the Examiner interpreted the claims broadly and provided the support in the teaching of Baldwin. Baldwin teaches retrieving information, therefore it is obvious that data for performance and outcome of games are information that provided, received, or transferred. The Examiner therefore maintains the rejection.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Weston et al teaches a method of game play using RFID tracking device; Cornelius et al discloses a communications system for supporting inter-dependent data messages; Rowe et al discloses gaming system including portable game devices.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adetokunbo O. Torimiro whose telephone number is (571) 270-1345. The examiner can normally be reached on Mon-Fri (8am - 4pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

/A. O. T./

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/Robert E Pezzuto/

Supervisory Patent Examiner, Art Unit 3714